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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,556	06/09/2006	Tomofumi Mackawa	P29878	9960
7055 7590 06/08/2009 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191				
EXAMINER BUTTNER, DAVID J				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
06/08/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/582,556

Applicant(s)

MAEKAWA, TOMOFUMI

Examiner

David Buttner

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-13 is/are rejected.
- 7) ☒ Claim(s) 6, 7 and 14-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

The new IDS, replacement abstract reference and mailroom receipt referred to in applicant's response are not present in the file.

Claim 9 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The amendment leaves the same limitations already present in claim 1.

Claims 1-3,5 and 8-11 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over JP2003020398.

The reference exemplifies blends of 1-20% polytrimethylene terephthalate and 99-80% polycarbonate. The reference does not report crystallization enthalpy or crystallization temperature. It is assumed the reference compositions inherently have the required values as the reference utilizes the same materials in same amounts as claimed by applicant.

Claims 12 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable over JP2003020398 optionally in view of the "Principles of Polymer Processing" text.

JP2003020398 does not suggest blending part of the polycarbonate with the polyester in an initial step, followed by adding the remainder of the polycarbonate.

Such a "masterbatching" technique is well known in polymer mixing. Preparing an initial concentrate of the minor component in the matrix polymer, followed by dilution of the concentrate in the remainder of the matrix polymer allows for a more uniform final product (see Principles of Polymer Processing). It would have been obvious to first

produce a "masterbatch" of the polyester with some polycarbonate in an initial mixing step for the expected advantages.

Claims 6,7 and 14-17 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant has shown (eg #8 vs C1) that the addition of small amounts of secondary polyester to PC/PTT blends improves impact strength and heat deflection temperature which is not predictable from the art of record.

Applicant's arguments filed 1/15/09 have been fully considered but they are not persuasive.

Applicant argues that JP2003020388 would not have the required crystallization enthalpy because the reference produces the blend in one step rather than the masterbatch technique of claims 12 and 13.

This is not convincing. Applicant's examples 7-10 mix all the components (including a secondary polyester) in one step and obtain the necessary crystallization enthalpy. Clearly, mixing technique is not the sole criteria for obtaining a crystallization enthalpy of 0-15J/g. Applicant's specification only "preferably" uses the masterbatching technique (page 21 line 12). This suggests direct one-step mixing is also operable. Additionally, applicant has only provided data for the binary blends of PC/PTT at 70/30. The examiner cannot assume that the lower ratios (ie 99-80/1-20) of the reference fail to have the required crystallization enthalpy.

Applicant requests that the entire chapter of the "Principles of Polymer Processing" be provided.

The chapter is 66 pages long. The limited time for examination does not permit the examiner to photocopy and then scan such a large document. The examiner is permitted to rely on less than the entire disclosure of a reference (MPEP 707.05(e) II). Presumably this holds for patent references as well as literature references. However, the examiner herein provides the additional few pages of the relevant section of the chapter.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Buttner whose telephone number is 571-272-1084. The examiner can normally be reached on weekdays from 10 to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Seidleck, can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Buttner

6/2/09

/David Buttner/

Primary Examiner, Art Unit 1796